

NEIL ABERCROMBIE
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RECOMMENDATION SUBMITTAL

DATE: March 27, 2014

TO: Catherine Payne, Chairperson

FROM: Catherine Payne, Chairperson
Performance and Accountability Committee

AGENDA ITEM: Action on Length of Terms of the State Public Charter School Contract

I. DESCRIPTION

That the Committee recommend that the Commission approve guidelines for length of terms of the State Public Charter School Contract ("Charter Contract").

II. AUTHORITY

Contract Revisions: Pursuant to Hawaii Revised Statutes ("HRS") §302D-3, "[a]ny charter school holding a charter to operate under Part IV, subpart D, of chapter 302A, as that subpart existed before July 11, 2006, and any charter school holding a charter to operate under chapter 302B as it existed before June 19, 2012, shall be considered a charter school for the purposes of this chapter under a charter contract with the commission unless the charter contract is revoked, transferred to another authorizer, or not renewed, or the charter school voluntarily closes."

Contract Terms: Pursuant to HRS §302D-18 (a), "A charter contract may be renewed for successive five-year terms of duration, although an authorizer may vary the terms based on the performance, demonstrated capacities, and particular circumstances of each school."

Charter Renewal: Pursuant to the Charter Contract, Section 13.1, "[t]he Parties agree that this Contract, upon its expiration, will not be subject to the renewal process pursuant to Sec. 302D-18, HRS. The Parties agree that, upon expiration of this Contract term, they intend to execute a new charter contract for a subsequent term to be determined by the Commission."

III. BACKGROUND

At the March 14, 2013 Commission General Business Meeting, the Commission adopted the Charter Contract template. The Commission's accountability system is incorporated into the Charter Contract through three Performance Frameworks: Academic, Financial, and Organizational (collectively, the "Performance Frameworks").

Last summer, all thirty-three of Hawaii's charter schools signed one-year contracts with the Commission. These contracts will expire on June 30, 2014. The 2013-14 contract stipulates that contract renewal will not be based upon the process outlined in HRS §302D-18 but instead will be determined by the Commission. Subsequent contracts will follow the full contract renewal process outlined in HRS §302D-18, which is based in part on school performance. The Commission's administrative rules relating to renewal are going through the approval process; currently the administrative rules are being submitted to the Governor's office along with a request for public hearings.

Both the Financial and Organizational Frameworks were approved by the Commission at its March 14, 2013 General Business Meeting. On December 5, 2013, the Commission issued financial performance summaries of each school based on the Financial Performance Framework in its Annual Report. Schools were also provided an opportunity to respond to the preliminary ratings before final ratings were issued.

In addition, schools submitted information for a preliminary assessment on the Organizational Performance Framework. Schools received their preliminary assessments on January 24, 2014, and then had an opportunity to submit additional material by February 21, 2014.

The Academic Performance Framework was not in place when contracts were signed in the summer of 2013. The Academic Performance Framework is near completion and is scheduled to be approved by the Commission by May 2014.

At the Commission's February 27, 2014 Performance and Accountability Committee meeting, staff presented three options for setting the term length of the Charter Contracts: (1) variable terms based on performance; (2) a three-year contract with an option for extension; and (3) a three-year contract with differentiated renewal. Preliminarily, staff recommended option 2 or 3 but asked that the Committee defer taking action on the agenda item because it was still conducting research and working on the details of each option. The Committee deferred action at its February meeting.

At the Commission's March 27, 2014 Performance and Accountability Committee meeting, staff presented its recommendation, as described in the Decision Making Statement below. The Committee did not have quorum, so it was unable to take action on the motion to make a recommendation to the Commission. The discussion at Committee, however, was generally in favor of staff's recommendation. Staff has brought the item to the Commission as a separate agenda item on the Commission's April 10, 2014 General Business Meeting.

IV. DECISION MAKING STATEMENT

The Commission is responsible for evaluating charter school performance and for making decisions about whether to renew a school's charter contract. The contract includes three Performance

Frameworks — Academic, Organizational, and Financial — that establish the criteria that will be used for charter renewal.

Staff has discussed and researched guidelines and different approaches for establishing contract terms both internally and with the National Association for Charter School Authorizers (“NACSA”). These options are summarized here:

Option 1. Variable Terms Based on Current Performance

The Commission could elect to assign variable term lengths to schools based on existing performance measures. Staff already has some performance information from the organizational and financial performance frameworks. Despite the fact that the Academic Performance Framework has not been finalized at this time, the Commission could retroactively apply the Academic Performance Framework once it is adopted in order to inform contract terms, could adopt other academic measures to help make this determination, or it could base contract terms on organizational and financial performance only.

Option 2. Three-Year Contract with Option for Extension

There are other approaches to contract renewal that would delay the use of performance criteria. One option is that the Commission could enter into three-year contract terms with all thirty-three schools, with an option for an automatic two-year extension for qualifying schools. Staff would determine criteria based on the performance frameworks for the automatic two-year extensions. Schools that did not qualify for the automatic two-year extension would undergo the contract renewal process described in law and administrative rule. The renewal process for those schools might lead to renewal of contracts anywhere from one to five years, or could result in non-renewal.

Option 3: Three-Year Contract with Differentiated Renewal

This approach is similar to Option 2. All schools would enter into three-year contracts beginning in July 2014. Schools would all go through the renewal process during the same time period; however, under this proposal that renewal process actually may differ for schools based on individual performance. Staff is still working out the details, but presumably, a school that demonstrated exemplary performance on all three frameworks would have a less rigorous renewal process than a school that struggled on the performance frameworks.

After further discussion and research, staff now recommends Option 2: All charter schools would enter into a three-year contract term beginning July 1, 2014, and schools that meet exemplary performance (to be determined later but to be based on performance frameworks) would receive an automatic two-year extension on their contract.

This approach provides all schools with equal contract terms, at least until 2017, and avoids the complications that would arise if the Commission attempted to differentiate terms this year based on a retroactive application of the Academic Performance Framework.

Also, Option 2 allows the Commission and the schools alike to gain experience with all three performance frameworks before the Commission establishes charter renewal guidance. NACSA’s *Principles and Standards for Quality Charter School Authorizers*¹ states that “a quality authorizer designs

¹ Available at www.qualitycharters.org.

and implements a transparent and rigorous process that uses comprehensive and reliable data to inform merit-based decisions.” Staff believes that Option 2 promotes rigor and transparency by allowing schools to be evaluated on all three frameworks during the 2014-15 school year before the renewal criteria will be established. This will also allow for slight modifications, if needed, to the performance frameworks.

Finally, this approach will avoid the administrative burden on Commission staff of having all thirty-three (or more) schools go through the same renewal process at the same time.

There is one potential drawback to Option 2. As an example, assume School A, which has done well on all three frameworks and thus receives an automatic extension. That extension means School A’s contract will now expire in 2019. Compare that with School B, which has struggled on the frameworks and undergoes the full contract renewal process in the fall of 2017. As a result of that process, School B hypothetically could receive up to a five-year contract. The resulting irony is that School B could have a contract that expires later than School A’s. Of course, School B would have had to undergo a thorough renewal process, which School A was able to bypass. In addition, when School A came up for renewal in 2019, it, too, would be eligible for a five-year contract. Furthermore, when School B was up for renewal in 2017, the Commission could determine the length of the contract, which could be shorter.

Schools have already received information regarding their performance on the organizational and financial performance frameworks. The Academic Performance Framework has not yet been adopted. Moreover, the Academic Performance Framework is more time-dependent than the other two frameworks, due to its integration with the Strive HI State Accountability System (“Strive HI”). A Strive HI report typically comes out in August but is based on data from the previous school year.

The following offers a **potential** timeline for contract renewal under Option 2 to illustrate how the process may work. These deadlines do not need to be approved at this point. Also, by the first deadline noted here, schools will have already received information on their performance on all three Performance Frameworks.

Early Spring 2016: The Commission approves the criteria that will be used to determine which schools receive automatic two-year extensions. The Commission also approves the charter renewal application and decision criteria for the renewal process. By early Spring 2016, schools will have received feedback from all three performance frameworks.

Spring 2016: Commission holds orientation to go over renewal process with school leaders and governing board directors.

September 2016: Preliminary school-specific reports are issued to each school based on the three Performance Frameworks.² Assuming Strive HI information is available by September, the reports include academic performance data from the 2015-16 school year. Schools that have demonstrated exemplary performance are notified of their automatic two-year extension. All schools have a chance

² Current law requires authorizers to issue charter school performance reports and renewal application guidance “to any charter school whose charter contract will expire the following year.” Proposed legislation would change the language to read “The authorizer shall issue a charter school performance report and charter contract renewal application guidance, by December 31, to any charter school whose charter contract [will expire the following year.] is in its final contract year.”

to comment on the performance report and offer corrections or additional data to supplement the record.

December 1, 2016: Tentative deadline for schools to submit their renewal applications.

January 15, 2017: Commission staff issues renewal recommendations and holds public hearings.

February 28, 2017: Deadline by which Commission makes renewal decisions and communicates decisions to stakeholders.

V. RECOMMENDATION

Staff made the following recommendation as a motion to the Committee, but the Committee was unable to take action on it:

“Moved to recommend to the Commission that when determining the length of terms for charter contracts for the State Public Charter School Contract, effective as of July 1, 2014, all charter schools enter into a three-year contract term beginning July 1, 2014, and schools that meet exemplary performance (to be determined later but to be based on performance frameworks) receive an automatic two-year extension on their contract.”